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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/970,597	10/04/2001	Odile Cohen-Haguenuer	8076.110USC2	2710

7590

06/03/2004

Attention: Katherine M. Kowalchuk  
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EXAMINER

NGUYEN, DAVE TRONG

ART UNIT

PAPER NUMBER

1632

DATE MAILED: 06/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/970,597

**Applicant(s)**

COHEN-HAGUENAUER, ODILE

**Examiner**

Dave T. Nguyen

**Art Unit**

1632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on March 3, 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 27-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 27-46 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 October 2001 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |  |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                        |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>See Continuation Sheet</u>                        |

Continuation of Attachment(s) 6). Other: examiner's amendment, ex parte quayle .

A handwritten signature in black ink, appearing to read "Dave", with a long, sweeping horizontal line extending to the right.

DAVE T. NGUYEN  
PRIMARY EXAMINER

The terminal disclaimer and the amendment to the specification have been amended by the amendment filed March 3, 2004.

Claims 27-46 are allowable. The claims are allowable because the prior art of record while teaches that there are FR-MULV strains, which are infectious and pathogenic to a mammal such as humans, the prior art of record does not teach or suggest the make and use of a FR-MuLV retroviral vector comprising an isolated nucleotide sequence encoding an exogenous polypeptide as claimed.

#### **Examiner's Amendment**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a personal interview with Attorney Katherine Kolwachyk on June 1, 2004. The amendment is to cancel claim 1 since claim 1 has been assumed as being canceled by applicant (see page 3 of the response filed March 3, 2004), but it has not been actually canceled by applicant.

Claim 1 has been canceled.

The following formal matters must be corrected by applicant in accordance with ***Ex parte Quayle*** before this application can be issued.

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1/ On page 12 of the specification, the heading "Brief description of the drawings" should be inserted immediately in front of the paragraphs describing the figures of the drawings.

2/ In either the drawings or brief description of drawings (page 12 of the specification), SEQ identifiers are lacking for the sequences as depicted in Figures 1a – 1d, and Figures 5A to 5E.

Note that the drawings of Figures 1a to 1d depict 4 different nucleotide sequences. However, neither the drawings nor the brief description of drawings refer to the sequences by a SEQ identifier.

Thus and even though a paper copy of the sequence listing together with the computer readable file have been entered, this application fails to comply with the requirements of 37 CFR 1.821 through 1.825 because of the reasons as set forth above.

3/In addition, the brief description of drawings regarding Figures 1 and 2 are also objected because the drawings only depict figures 1a to 1d and 2a to 2b. There are no Figures 1 and 2 labeled in the drawings. Correction is required.

4/ The specification and abstract should be reviewed carefully for references referring to "Figure 1" rather than the actual sequence identifiers as recited in Figures 1a, 1b, 1c, or 1d. See the replaced paragraph on page 5, line 16 of the specification in accordance with the amendment filed March 3, 2004, and the replaced paragraphs in accordance with the preliminary amendment filed at the time of filing, e.g., page 3, line 8, page 3, line 19, page 4, line 17, page 6, line 21, and the abstract.

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5/ Neither the lines nor the paragraphs of the specification are numbered. In addition, the specification is neither 1½ nor double-spaced. As such, and given the amount of corrections that need to be done in view of the reasons set forth above, a substitute specification, which includes all of the required corrections such as cross-reference information (first paragraph), headings for summary of invention, brief description of drawings, and working examples, and sequence identifiers and etc., is required.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner *Dave Nguyen* whose telephone number is **571-272-0731**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, *Amy Nelson*, may be reached at **571-272-0804**.

Papers related to this application may be submitted to Group 1600 by facsimile transmission. Papers should be faxed to Group 1600 via the PTO Fax Center number, which is **703-872-9306**.

Any inquiry of a general nature or relating to the status of this application should be directed to the *Group receptionist* whose telephone number is **(703) 308-0196**.

Dave Nguyen  
Primary Examiner  
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**DAVE T. NGUYEN**  
**PRIMARY EXAMINER**